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EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/729,905

**Applicant(s)**

SEMBRITZKI ET AL.

**Examiner**

Catherine Simone

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/27/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group II, claims 12-18 in the reply filed on 8/15/06 is acknowledged.

Claims 1-11 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 8/15/06.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerard (US 3,668,055).

Regarding claims 12 and 18, Gerard discloses laminated tissue paper comprising at least two plies with substantially identical embossing patterns, the embossing patterns consisting of embossing protrusions, wherein the at least two plies are displaced relatively to each other in a displacement direction, and laminated with the protrusions of the plies extending in the same direction (*see col. 1, lines 59-63 and col. 4, lines 46-63*), and the maximum distance D in the displacement direction between an embossing protrusion of a first ply and an embossing

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protrusion of a second ply, which is displaced relative to the first one, is inherently set as a function of the height  $H$  of the embossing protrusions and the length  $L$  of the embossing protrusions in the displacement direction so that  $D$  is equal to the smaller one of the values of  $12H$  and  $14L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 2, lines 48-60*) in a similar manner to that disclosed in the present invention and the bulk and thickness is increased as a result (*see col. 1, lines 65-66*).

Regarding claim 13,  $D$  is inherently equal to the smaller one of the values of  $8H$  and  $10L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 2, lines 48-60*) in a similar manner to that disclosed in the present invention and the bulk and thickness is increased as a result (*see col. 1, lines 65-66*). Regarding claim 14,  $D$  is inherently equal to the smaller one of the values of  $6H$  and  $8L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 2, lines 48-60*) in a similar manner to that disclosed in the present invention and the bulk and thickness is increased as a result (*see col. 1, lines 65-66*). Regarding claim 15, note at least one further tissue ply which is superimposed to the laminated tissue paper (*Fig. 3, sheets N and see col. 4, line 5*). Regarding claim 16, note at least one further tissue ply is another laminated tissue paper (*Fig. 3, sheets N and see col. 4, line 5*). Regarding claim 17, note the plies are laminated by adhesive ply bonding (*see col. 3, lines 50-51*).

4. Claims 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulz (EP 0 344 056).

Regarding claims 12 and 18, Schulz discloses laminated tissue paper comprising at least two plies with substantially identical embossing patterns, the embossing patterns consisting of

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embossing protrusions, wherein the at least two plies are displaced relative to each other in a displacement direction, and laminated with the protrusions of the plies extending in the same direction (*see col. 3, lines 20-45*), and the maximum distance D in the displacement direction between an embossing protrusion of a first ply and an embossing protrusion of a second ply, which is displaced relative to the first one, is inherently set as a function of the height H of the embossing protrusions and the length L of the embossing protrusions in the displacement direction so that D is equal to the smaller one of the values of  $12H$  and  $14L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 3, lines 20-45*) in a similar manner to that disclosed in the present invention and the bulk is increased as a result (*see col. 2, lines 38-41 and col. 5, lines 1-6*).

Regarding claim 13, D is inherently equal to the smaller one of the values of  $8H$  and  $10L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 3, lines 20-45*) in a similar manner to that disclosed in the present invention and the bulk is increased as a result (*see col. 2, lines 38-41 and col. 5, lines 1-6*). Regarding claim 14, D is inherently equal to the smaller one of the values of  $6H$  and  $8L$ , since the two plies are displaced relative to each other in a displacement direction (*see col. 3, lines 20-45*) in a similar manner to that disclosed in the present invention and the bulk is increased as a result (*see col. 2, lines 38-41 and col. 5, lines 1-6*). Regarding claim 15, note at least one further tissue ply which is superimposed to the laminated tissue paper (*see col. 4, lines 14-23 and line 63*). Regarding claim 16, note at least one further tissue ply is another laminated tissue paper (*see col. 4, lines 14-23 and line 63*). Regarding claim 17, note the plies are laminated by mechanical ply bonding (*see col. 3, lines 46-48*).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerard (US 3,668,055).

Regarding claims 12-14 and 18, Gerard discloses laminated tissue paper comprising at least two plies with substantially identical embossing patterns, the embossing patterns consisting of embossing protrusions, wherein the at least two plies are displaced relatively to each other in a displacement direction, and laminated with the protrusions of the plies extending in the same direction (*see col. 1, lines 59-63 and col. 4, lines 46-63*).

Although Gerard teaches the two plies being displaced relatively to each other in a displacement direction (*see col. 4, lines 46-63*) to achieve high bulk and increased thickness, Gerard fails to disclose the maximum distance D in the displacement direction between an embossing protrusion of a first ply and an embossing protrusion of a second ply, which is displaced relative to the first one, being set as a function of the height H of the embossing protrusions and the length L of the embossing protrusions in the displacement direction so that D is equal to the smaller one of the values of 12H and 14L, 8H and 10L, and 6H and 8L.

The optimum ranges for the maximum distance D in the displacement direction between an embossing protrusion of the first ply and an embossing protrusion of the second ply would be readily determined through routine experimentation by one having ordinary skill in the art

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depending on the desired end results. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the two plies in Gerard to have the maximum distance  $D$  in the displacement direction between an embossing protrusion of the first ply and an embossing protrusion of the second ply, which is displaced relative to the first one, set as a function of the height  $H$  of the embossing protrusions and the length  $L$  of the embossing protrusions in the displacement direction so that  $D$  is equal to the smaller one of the values of  $12H$  and  $14L$ ,  $8H$  and  $10L$ , and  $6H$  and  $8L$ , since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

Regarding claim 15, note at least one further tissue ply which is superimposed to the laminated tissue paper (*Fig. 3, sheets N and see col. 4, line 5*). Regarding claim 16, note at least one further tissue ply is another laminated tissue paper (*Fig. 3, sheets N and see col. 4, line 5*). Regarding claim 17, note the plies are laminated by adhesive ply bonding (*see col. 3, lines 50-51*).

7. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz (EP 0 344 056).

Regarding claims 12-14 and 18, Schulz discloses laminated tissue paper comprising at least two plies with substantially identical embossing patterns, the embossing patterns consisting of embossing protrusions, wherein the at least two plies are displaced relatively to each other in a displacement direction, and laminated with the protrusions of the plies extending in the same direction (*see col. 3, lines 20-45*).

Although Schulz teaches the two plies being displaced relatively to each other in a displacement direction (*see col. 4, lines 11-23 and col. 5, lines 1-6*) to achieve high bulk, Schulz fails to disclose the maximum distance  $D$  in the displacement direction between an embossing protrusion of a first ply and an embossing protrusion of a second ply, which is displaced relative to the first one, being set as a function of the height  $H$  of the embossing protrusions and the length  $L$  of the embossing protrusions in the displacement direction so that  $D$  is equal to the smaller one of the values of  $12H$  and  $14L$ ,  $8H$  and  $10L$ , and  $6H$  and  $8L$ .

The optimum ranges for the maximum distance  $D$  in the displacement direction between an embossing protrusion of the first ply and an embossing protrusion of the second ply would be readily determined through routine experimentation by one having ordinary skill in the art depending on the desired end results. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the two plies in Schulz to have the maximum distance  $D$  in the displacement direction between an embossing protrusion of the first ply and an embossing protrusion of the second ply, which is displaced relative to the first one, set as a function of the height  $H$  of the embossing protrusions and the length  $L$  of the embossing protrusions in the displacement direction so that  $D$  is equal to the smaller one of the values of  $12H$  and  $14L$ ,  $8H$  and  $10L$ , and  $6H$  and  $8L$ , since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

Regarding claim 15, note at least one further tissue ply which is superimposed to the laminated tissue paper (*see col. 4, lines 14-23 and line 63*). Regarding claim 16, note at least one

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further tissue ply is another laminated tissue paper (*see col. 4, lines 14-23 and line 63*).

Regarding claim 17, note the plies are laminated by mechanical ply bonding (*see col.3, lines 46-48*).

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CAS

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September 17, 2006



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